CLEMENT WRITER

AND

His moſt ungratefull Uuckle

Maſter

GEORGE WORFEILD

DECEASED

Briefly abſtracted into

METHOD

AND

Now made publike for prevention of ſuch miſ-
relations which are, or may be made
thereof, through the ignorance or
ill will of any.

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CLEMENT WRITER

A N D

GEORGE WORFIELD

Briefly shewed unto

M E T H O D

A N D

Now made publike for prevention of such mis-
takings which are, or may be made
thereof, through the ignorance or
ill will of any.

To the Right Honourable, the Commissioners of the great Seale of *England*.

THere is no greater blessing to a people then speedy and impartiall distribution of justice, nor, (if wisely considered) any greater happinesse to the distributors themselves, as that which makes their Consciences calme and full of tranquility, and consequently sweetens the fruition of all the good things God hath afforded us in this life; Rich men therefore are not more happy then poore, because they enjoy wealth and power, (for we see many rich men most miserable, and many poore men most happy) but in that they have greater opportunities and advantages of doing good, and so of gaining the love of God and good men, then which there can be no greater preservative to their life, name, and posterity, whereas when wealth and power are made the Instruments of Luxury and ambition, or Servants to other inordinate affections, they both distract their Masters thoughts, and sowre all the pleasures of this life, and more then that, occasion, (I may almost say continually) the losse of all, and a shamefull downfall in the conclusion.

That all this is true, your Honours cannot but allow both from necessary consequences in Reason, God having so ordered things that even in this life, every evill hath (though not in full proportion, for that is reserved for hereafter) yet in a competent measure, an inseparable punishment, which followes it as its shaddow, and every good in the same measure, it's Reward, As also from your Honours observation of the downfall of your predecessors and others, who though men of great abilities, and guarded with their Princes favour, insomuch that they thought they might truly say to danger, Thou canst not take hold of me, yet have we seen their Honours laid in the dust, and their ill spent lives, like the snuffe of a Candle extinguish'd, leaving behind them the noysome savour of corrupt men, which will everlastingly stick upon their families; insomuch that this conclusion may surely be built upon, that there is no true Happinesse, no Safety and Security but in a faithfull discharge of Trust and distribution of Justice.

That I have communicated my case to the world, is first, for the more opportune information of your Honours therein, who I hope will at some Leasure howre vouchsafe to peruse the same, and then I make no question, but the equity of my cause will evidently appear to be such as to call for a Review which I am assured will both discover how much I have been injured, and how much I ought to be repaired. The other reason of my devulging the same is, to caution all honest plain dealing men, how they rely upon words hereafter, and to make it evident that no courtesie is sufficient Engagement to

ingratefull monsters (professed Christians) who have their eyes pulled out, and the sign of friendship, mutuall respect, & relation they are bound to, & can have lost their faith and integrity, and the same obligations are necessary amongst us Christians (as we would be called) which an Indian would require of a Spaniard, or the greatest Enemy one of another.

I intend not the Biasing of my Judges, nor desire I to conclude them in a belief of what I have represented farther then what is evident, and may be made good by sufficient proofe, which (having opportunity) I am sure to doe each materiall particular thereof.

And so I leave it to the consideration of your Honours with this matchlesse saying of a Noble Lord: All outward shewes and exteriour apparencies are common to all Religions, As Hope, Affiance, Church-Service, Ceremonies, Penitence, yea Martirdom. Let the peculiar Badges of our truth be Vertue and Justice. *And what was the saying of that Lord, will I hope bee the practice of your Honours, which will ever oblige me (to the uttermost of my power) to be your Honours most trusty and faithfull Servant.*

C. W.

October the 25, 1648.

The

The caſe between Clement VVriter *Plaintiffe, and His Vncle Mr.* George VVorfield *deceaſed Defendant* et e contra.

THat whereas the ſaid Defendant *George Worfield* (having many Suits in Law which concerned in effect his whole eſtate) earneſtly importuned the ſaid Plaintiff *Clement Writer* (being a young man and ſiſters ſon of the ſaid *George Worfield*) to Solicite his ſaid Suits, yet the Plaintiff (being a *Clothier*, living in good credit & in a hopefull way) did utterly decline the deſire of his Vnkle the Defendant, untill by faire & flattering ſpeeches (fraught full of liberall promiſes of requitall) Hee was overcome to undertake the ſame, and the Defendant being an Ancient batchelour, and having conveyed certain Mills and Lands called *Ibulls* Mills, to one *Thomas Writer* (brother to the Plaintiff) in truſt (for the Plaintiffs benifit) to have them after the Defendants death,) did for the better ſatisfaction and encouragement of the Plaintiff in that behalf, put the ſaid Mills and Lands into the hands and preſent diſpoſing of the Plaintiff himſelf, and *promiſed forthwith to aſſure the ſame abſolutely vpon the Plaintiff and his heires, And for that purpoſe the Defendant* George Worfield *with another kinſman repaired to a conveyancer, to draw writings and conveyances importing the ſame accordingly.* Upon which encouragements, the Plaintiff was drawn to undertake the buſineſſe and affaires of the Defendant in Soliciting of his Suits which being 16 in number were by the Plaintiffs induſtry (after much travel and trouble there abouts) brought to ſucceſſull ends; which Suits (depending in moſt of the Courts at *Weſt.* and conſiſting of many intricate, troubleſome, & chargeable Suits) did wholly & altogether in effect ſo take up the Plaintiff, and diverthim from his other courſe of life and imployment, as that he loſt his trading, conſumed his time, expended much of his means and eſtate, ſet himſelf in debt in the proſecution of the ſaid Suits, & other affairs (of the Defendant) incident thereunto, into which he was ſo as aforeſaid wholly caſt & involved by the only *means and earneſt labours and entreaties of the Defendant who beare the Pliantiff in hand, that he would recompence and requite him touching the premiſſes, to the vtmoſt of his eſtate, or if all he had in the World would do it*, or uſed words to that effect. All which, nevertheleſſe through

the instigation of his wife (whom he afterwards married) he utterly neglected to perform, and contrariwise was childishly led to do any thing for the benifit of her and her kindred, and to forget the Plaintiffe, and to set all his great paines, expences, travill and trouble aside, as if he had been a meer stranger to him. Howbeit the same imployment had cost & damnified the Plaint. above the summe of 2000l. for relief whereof the Plaintiffe brought his suit in Chancery against the Defendant and his imperious wife, & the Defendant brought his suit there also against the Plaint. & desired relief for about the 4. part of the Plaintiffs Demands, which severall Causes came to hearing in *Mich:* Term, 10. *Caroli Regis*, and the same resting chiefly upon matters of account, of monies disbursed, and dammages sustained. It pleased the then Lord Keeper *Coventry* of unhappy memory, to order that the same Causes should be referred to an Audit, thereof to be taken in the Country, and that the parties should attend him for the nominating of Commissioners, which being done accordingly, the said Lord Keeper against the will of the Plaintiffe, referred the said matters to certain Commissioners, which stood not equall and indifferent between the parties, namely to Sir *Walter Devereux* Kt. and Baronet, (the Defendants Landlord) to *Will. Barkley* Esq. (whose Sister the Defendants Brother and Heir apparant had married, and the Plaintiffs greatest disbursments & employments then to be allowed for by the said Commissioners, were against the said Mr. *Barkleys* said Sister and her only Sonne,) and to Dr. *Charlet* (in whom the Defendants Solicitor had much interest) or to any two of them, These and none other (saving to the Bishop of *Worcesters* Chancellour and Register who were known adversaries to the Plaintiffe) would the said Lord Keeper admit to be Commissioners in the said Causes, The Plaintiffe by his suite demanding above 2000l. which is well proved. The Defendant demanding only 619l. 10 s. much whereof is disproved, The said Commissioners by colour of a Commission in that behalf, shortly after proceeded in the Execution thereof, and having received from the Plaintiffe an Account in writing, containing severall particular summes of the Plaintiffs Demands, amounting to 21781. which the Plaintiffe was ready to have made good by depositions of sundry witnesses, examined in the said Causes. The said Commissioners totally concealling the Plaintiffe, *Clement Writers* aforesaid Account amounting to 21781. did certifie and make return of a certain paper amounting to 619l. 10s. only, alleaging in the said Certificate, to have received it from the said Plaintiffe upon his Corporall Oath, as the full demands of the Plaintiffe, which is most false and dishoneſt. And on the other side, the said Commissioners certifie, and make return of an account amounting to 619 l. 10s. in the behalf of the Defendant *George Worfield*, which they did not only totally approve of, without hearing what the Plaint. could alleage against it; but likewise most falsely affirme in their said Certificate, that the said Plaintiff *Clement Writer*, did confesse and acknowledge before them, that the said Account of the said *George Worfield* amounting to 619l. 10s. was true. And so setting the Demands of the Defendant amounting to 619l. 10s. against a supposititious account (forged by the said Commissioners) for the Plaintiffs Demands amounting to 619l. 10s. also. The said Commissioners certified, That there is none of the said monies remaining due by either party to the other.

Besides

Besides all which, there is a palpable contradiction in the said Commissioners Certificate; for by the Accompts certified, they allow the 6191. 10s. wholly to the Plaintiffe, *for his disbursments in charge of suit for his yearly expences in his own maintenance, and for his horse yearly, one year with another for 7. years, and for dammages for these expences and for his paines, and for his losse of Trade.*

The Commissioners Certificate contradictorie.

And yet by their Certificate it selfe, they affirm that they allow the said 6191. 10s. not only for the particulars aforesaid, but also *for all other things in the Answer of the said George admitted.*

At return whereof, *Affidavit* was made of these their indirect and unjust proceedings, and the Lord Keeper moved to referre the matter to a Mr. of the Court, as in such Cases is usuall, or to other Commissioners in whom neither party had Interest, both these were denyed, and the matter again referred (much against the Plaintiffs liking) to the very same Commissioners, to rectifie their former mistakes, and to take the Accompts and to certifie them, &c. As by the severall Orders the one of the 25. of *October*, *Xo. Car.* and the other of the 16. of *February* after followeth.

Whereupon the Plaintiffe being disheartned any more to attend the said Commissioners, and resolving to decline them, petitioned the said Lord Keeper to that purpose, in these words following.

To the Right Honourable, the Lord Keeper of the Great Seal of *England*.

Clement Writer Plaint.
George Warfield Defend.

The Humble Petition of the Plaintiffe.

Sheweth,

THat the Petitioner being not permitted any Councell at the passing of his accompts, was himselfe alone to mannage it against many opposers, and therefore cannot otherwise then by himself evidence the miscarriages thereat, which were more then ordinary in many respects. A Tast whereof may appear by the *Affidavit* annexed, which (if false, the Petitioner ought to be punished, but if true (as it is) to be relieved from being thus concluded and undone by such Commissioners, against whom he * excepted both first and last, and that justly; for the Petitioner will undertake before your Lordship, (or any other indifferent Judge,) to manifest their grosse erring many hundred pounds, and coming short of the Defendants own acknowledgment, and offer by at least 500l. as is proved in the Bookes.

* *If this had not been true, the Plaintiffe durst not thus have affirmed it to his Lordship.*

He

He therefore humbly beseecheth your honour duly considering the premisses, either so to retaine the matter in your Lordships own hands, or otherwise in your Lordships wisdom so to dispose thereof, as the Petitioner may find some releif herein agreeable to justice; for which purpose he layeth himself and cause at your Lordships feet, utterly declining the said Commissioners, beseeching your honour not to expose him to such extremity, who hath chosen your Lordship as the only man upon earth by whom to be righted from the wrongs, and extremities of other men; nor causelessly so to withdraw your Lordships wanted lawfull favour, and help now at last in greatest need, from him who ceaseth not to pray, for your Lordships encrease of all true honour and eternall happines.

The Coppy of his Lordships subscription, with his owne hand to the said Petition is as followeth.

THe Commissioners were (as I take it) agreed on in Court when the Petitioner and his Councell were present, and have already sped one Commission, and I may not upon the parties affidavit (without better ground) alter them, nor lay any disreputation upon them whom I hold to be of so much better credit then the Petitioner.

14. *Martij* 1634. *Tho. Coventry Cs.*

HErein his Lordship was much mistaken, for the Plaintiff was himself alone without any Councell or help, in his Lordships Chamber at Durisme-house, where these Commissioners were nominated by his Lordship; at which time the Plaintiff did much except against the said Commissioners, as by the Affidavit following may appear.

Inter Clementem Writer quer. Georgium Worfield et Elizabetham uxor ejus defts. et e contra.

THe said Complainant maketh Oath, that in *Michaelmas* Tearme 1634. he this Deponant, was present with one *John Worfield*, and *Francis Walker*, Solicitors for the said *George Worfield* at Durefme-house, before the then Lord Keeper *Coventry*; at which time it pleased the said Lord Keeper, to nominate Sr. *Walter Devereux* Knight and Baronet, *William Barkley* Esquire, and Docter *Charlet* for Commissioners in the said Causes; Whereas this Deponant did then much except against the said Commissioners as unequall and unfit; desiring his Lordship either to refert the same to a Master of the *Chancery*, or else to Gentlemen of another County, who were strangers to both parties, but this was denyed; Whereas on the other side, the said *Walker* desired his Lordship that none of the in County of the City of *Worcester*, might be nominated Commissioners, which was granted

and

and fulfilled, and he further deposeth that he this Deponant, did then persist to except against the said Commissioners the 14th. until such time as the Peremptorily told this Deponant that he should have these or the other, meaning Mr. Burden and Mr. Warmestrey, who were this Deponants known enemies. And thus * (much against this Deponants will and liking) were these Commissioners thrust upon him by the said Lord Keeper.

* This is against the rules of his Lordships own making, and his Chancery Office, which is, that no such Reference should be made without consent of both parties. Rule 21.

Mart. 27. February 1645.

John Page.

And that the Plaintiffe was himself alone, and not permitted to have any friend present to observe the carriage of the said Commissioners at the execution of the said Commission, may appear by the Affidavit of Mr. Edward Elvins, late Mayor of Worcester, which here followeth.

Inter Clementem Writer querentem & Georgium Worfeild Defendentem.

EDward Elvins the Elder of the Chamber of the City of Worcester Baker maketh Oath; that he, this Deponant upon the 15. day of January 1634. was at the Talbot in Sidbury, where Sir Walter Devereux Knight, William Barkley Esquire, and Doctor Chaplet were upon a Commission between the said parties, and he this Deponant seeing the friends of the said George Worfeild, to have resourse at their pleasure into the Chamber unto the said Commissioners, he this Deponant went in also, and there saw the said Clement Writer about the midst of the Chamber with divers writings in his hands, tendering the same to one, and to another of the said Commissioners, and noone of them regarding it, but still giving him taunting words, and while this Deponant was thus beholding these passages, Sir Walter Devereux came to this Deponant, and demanded what businesse he had there, and this Deponant said, I came to speak with my friend Mr. Writer. To which Sir Walter Devereux replyed, then speak with him and depart the Roome, so Clement Writer came and went aside with this Deponant to a window in the same Roome, and there told this Deponant how unjustly the said Commissioners proceeded against him, and after this left this Deponant and went to them again, and this Deponant standing by, was presently by the said Sir Walter again * commanded out of the Roome, so this Deponant departed, and left the said Commissioners, and divers of the said George Worfeilds friends with them, but saw no friend, nor helpe with the said Clement Writer there.

* See the Justice & honesty of these Commissioners.

Jur. 16. January 1640.

Ro. Rich.

Here note that the Lord Keeper in his subscription to the Petition aforesaid, saith thus, viz.

I may not upon the parties Affidavit, without better ground alter the Commissioners, nor lay any disreputation upon them, &c.

INtimating thereby (a man would think) that if the Commissioners miscarriages were, or could be proved by the *Affidavit* of others who were not parties, he would alter the said Commissioners, and relieve the Plaintiffe; who upon this consideration was advised to take out a new Commission upon this latter Order of reference, and once more to attend the said Commissioners in the business; but to take councell and company sufficient with him, to bear witnesse (if need should be) of their behaviour, which the Plaint. accordingly did, & at the execution of this latter Commission: the Plaintiffe gave in, to the said Commissioners an Account of his demands in writing, amounting to above 2000 l. and he with his Councell Mr. *Sergant Wild*, and Mr. *Thomas Andrewes*, were there ready to make good the same in each particular thereof, by depositions of substantiall witnesses examined in the said Causes, but the said Commissioners * refused to heare and examine the same, and also to rectifie their former mistakes, and also to return the said Accounts. All which by Commission they were required to do, but the said Commissioners having heard the depositions of one or two witnesses at the most, and examined *viva voce* (only one witnesse) in a Petty brake up very abruptly, and so dismissed the Plaintiffs Councell altogether unsatisfied. And afterward returning the said Commission without any Accounts. Made Certificate. * *That they had examined upon Oath (viva voce) severall witnesses, and had fully heard again, all the Demands and allegations as well of the said Writer, and of his Councell, as also of the said Worfeild, and of his Solicitor and Witnesses, in as full and ample manner as by the Commission they were required.*

* *Mr. Serjeant Wild being then present, knows the truth hereof.*

* *These are the very words of the Certificate, which how false they are, may appear by the Affidavits following, &c.*

And having thus dishonestly stuffed their Certificate with many grosse falsehoods, They then in generall words only, confirmed their former Certificate.

At the return whereof, the said Lord Keeper (without hearing the Plaintiffs Councell) without admitting his just exceptions,* without any day given him to shew cause against it) decreed the said Certificates by order of the 30. *Aprill, Xo. Caroli.*

* This is expresly against the rules of the Court, extant in a book in the Registers Custodie, which is as followeth, viz.

No Order shall be made for the confirming or ratifying of any report without day first given by the space of a sennite at least to speak to it in Court. Hen: Scobell.

Note

Note, that against the return of this latter Commission, the Plaintiffe at his great Charge, brought 3. Witnesses up to London, who made Oath of the Commissioners behaviour, the true Copy whereof here followeth.

Clement Writer Plaintiffe, and *George Worfeild* Defendant.

FRancis Callow, *Simm Longmore*, and *Thomas Writer* the younger, of the City of *Worcester*, do make Oath, that they were all three present the 11. day of this instant *April*, in the said City at the speeding of a Commission in the Cause between the said parties, before Sir *Walter Devereux*, Knight and Baronet, Doctor *Charles*, and Mr. *William Barkley* Commissioners, at which time the said Plaintiffe had Councell present. But the said Commissioners were unwilling to admit the said Councell to speak in the Cause, yet at length they were admitted, who desired according to the last order of reference, that the Accompts between the parties might be reviewed and rectified in the mistakes and omissions thereof; but the said Commissioners answered, that they were resolved not to alter or vary from that they had formerly done; but if they had new matter, they would heare them, otherwise not. And the said Councell urging, that the former Certificate was upon a generall setting the Demands of the one against the other in gross, and thereby making them both even, which was a great mistake, and much dammage to the Plaintiffe, and not the right way of proceeding in such Cases. And therefore desired that the severall Accompts might now be examined in each particular by themselves with the time and other Circumstances considerable to be considered of, which would make the Accompts clear and certain. To this effect was the desire of the Plaintiffs Councell, but the said Commissioners utterly refused so to do. And the Plaintiff for the better clearing of the truth, desired to have the Defendant himself examined upon Oath, but this also the Commissioners declyned and would not do. And these Deponants further say, that there was only one witnesse sworn and examined, which was one *John Evett* a main stirrer in the businesse for the said Defendant against the said Plaintiff, which *Evet* was examined on the Defendants behalf. And the said Mr. *Barkley* openly affirmed, that we (meaning, as these Deponants conceive, himself and the other Commissioners give more Credit to the said Mr. *Evet*, then to all the Plaintiffs witnesses. And in conclusion, a while after there being speeches concerning the Lands in question, and the Plaintiffs Estate therein. Sir *Walter Devereux* openly affirmed that they would not meddle with the Land, for therein they had no power. And the Plaintiffs Councell then desired the Commissioners so to explain themselves; Whereupon Sir *Walter Devereux* using speeches to this effect, *viz.*

Nay, if you be there, we have done, and rose up in displeasure, and so brake off. And thus ended the businesse.

Clement Writer maketh Oath, that this is a true Copy of an Affidavit of the said

 three

three Deponants, taken before Mr. *Page* the 27. day of *Aprill* last, which Affidavit being annexed to a Petition, he this Deponant, did deliver vnto the Right honorable the Lord *Keeper* on, or about the tenth day of *May* last.

Iur. 8. *Iurij.* 1635.

IOHN PAGE.

Soone as the precedent Affidavit was made, the Plaintiff annexed it to a Petition, and instantly presented it to the said Lord Keeper, to heare his Councell touching the said unjust proceedings, but instead thereof, his Lordship peremptorily decreed the said Certificates as aforesaid. The Plaintiff then sought to regaine the said Petition and Affidavits, but could never get them again though he much endeavoured the same, as by the Coppies of two Letters, which he sent to Mr. *Aboud* the said Lord Keepers then Secretary here following may appear.

Good Sir,

IN *May* I delivered to my Lord a Petition with an Affidavit of three Deponants; and since I delivered other Affidavits and things, and you pleased to tell me, that your man had found some things of mine, which you said should be laid by for me, and I was upon *Tuesday* at *Cambury*, but you were from home, it is the Affidavit of the three Deponants which I most desire, And now, if it may stand with your conveniency, I would entreat you to send them by this Bearer. Truly Sir, my Lords hand lies exceeding hard upon me, to the admiration of many and amazement of my self. First, to* *put such Commissioners upon me notwithstanding my exceptions against them*, and then to Decree their Certificates, without hearing Councell touching my just exceptions thereto, when it lay meerly upon my own Affidavit, then he pleased to answer me, That he might not alter them upon the parties Affidavit without better grounds &c, And now when I have much better ground, and have proved their miscarriage and partiality by the Oathes of divers honest men, and can further prove it, and the falsnesse of their Certificates by divers others, and by some of as good quallity as themselves; Now it is decreed, and my Councell denyed a time to be heard in the cause, nor could I obtaine it by Petition, it being all as was desired as you may see by the Petitions, and if it be not hard to be thus concluded and undone, I know not what is, or can be.

* *If this had not been true, the Plaintiff durst not thus averre it under his hand.*

My enemies are many, who wanting neither power, pollicy, nor dishonesty, have used strong meanes to bring this about, you pleased to tell a friend of mine, that I had enemies in the house, and some things I have heard by others, and have found much more by the effect. Sir, I presume much of your love and honesty, and do humbly entreate you to add this to your many favours undeserved, to inform me herein, and to direct, and assist me what course I may take, rightly to inform my Lord in the true state of the businesse, and to remove his prejudice, that I may find some releif agreeable to justice; for which I should be much obliged to you, and now craving pardon for this my boldnesse, I humbly take leave and rest,

3 *Septemb.* 1645. *Yours to be commanded,*

CLEMENT WRITER.

Good

Good Sir,

ABout a week since, I made bold to write to you for the Affidts. and Papers of mine which you pleased to tell me were found, & should be laid aside for me; but the messenger finding you then busie, returned without them; wherfore now (it standing with your leasure) be pleased to send them me by this Bearer, & further to help me in my request then made to you, as it shall please the Lord to move your heart; not doubting but you in great measure know that Iam very much wronged, yet not more then God in his wisdom seeth good to exercise me withall, nor more then he is able to give a good issue out of, at his pleasure, by changing my Lords heart, & turning his prejudice from me, which I am perswaded would soone be done, did his Lp. but know (by some of respect) the naked truth of the case; whereto if you please to incline your pains, you would do much service to Almighty God, as well in vindicating the truth, as also in preventing his Lps. having a hand so causlesly in the ruin of him, who never did, nor thought him hurt, and wherein assuredly you should neither lessen his Lordships honour living, nor his, or your own comfort dying; for the matter is so foule, as if it were well known and considered by his Lordship, he would disdaine to have any hand in countenancing or confirming so unjust a businesse, or giving him or them thanks by whom my self, or cause, or both, have been presented under so ill a notion as to beget this his prejudice, under which I so much suffer in the judgement of many, and this would be acknowledged by you, if you did but see what I could farther manifest to you. All which, I now commend to your due consideration, and it and you to the guidance and blessing of Almighty God, in whom I rest.

12 *Sept.* 1645. *Yours to be commanded,*

CLEMENT WRITER

Thus the Affidavits of these three witnesses, and all the Plaintiffs charge in bringing them to London was quite lost; for he (making hast to present them) omitted fileing them, which some (as it seemes) perceiving deteined them, lest the Plaintiff should make further use thereof, in discovery of these undue proceedings. Yet nevertheless here are some other Affidavits of eye witnesses also, which (being filed and thereby preserved) may sufficiently discover the injustice of the Commissioners, at the execution of the second Commission and the falshood of their Certificate made thereupon. *viz.*

1. *The Affidavit of* William Hill *Gentleman Town-Clarke of* Tewkesbury *in the County of* Glocester.

Clement Writer Plaintiffe, and *George Worfield* Defendant.

William Hill Genrleman Town-Clerke of the Borrough of *Tewkesbury* in the County of *Glocester*, maketh Oath, that he was present the 11 day of *Aprill* last in the City of *Worcester*, at the execution of a Commission between the said parties, before Sr. *Walter Devereux* Knight and Baronet, and Doctor *Charlet*, & Mr. *William Barkley* Commissioners, at which time the said Plaintiff had Councell

cell alſo preſent; but the ſaid Commiſſioners were unwilling to admit the ſaid Councell to ſpeak in the cauſe. Yet at length they were admitted, who deſired according to the laſt order of reference, that the accompts between the parties might be reviewed, and rectified in the miſtakes, and omiſſions thereof; but the ſaid Commiſſioners anſwered, that they were reſolved not to alter, or vary from that they had formerly done; but if they had new matter they would here them, otherwiſe not. And the ſaid Councell vrging that the former Certificate was upon a generall ſettiag, the demands of the one againſt the other in groſſe, and thereby making them both even, which was a great miſtake, and much dammage to the Plaintiff, and not the right way of proceeding in ſuch caſes; And therefore deſired that the ſeverall accompts might be now examined, in each particular by themſelves, with the time and other circumſtances conſiderable to be conſidered of, which would make the accompts cleare and certaine. To this effect was the deſire of the Plaintiffs Councell, but the Commiſſioners utterly refuſed ſo to do; and the Plaintiff for the better clearing of the truth, deſired to have the Defendant himſelf examined upon Oath; But this alſo the Commiſſioners declined, and would not do. And this Deponant further ſaith, there was onely one witneſſe ſworn and examined, which was one *Iohn Evet* Gentleman, who was examined on the Defendants behalf. And the ſaid Maſter *Barkly* openly affirmed, that we (meaning (as this Deponant conceiveth) himſelfe and the other Commiſſioners) give more credit to the ſaid Mr. *Evet*, then to all the Plaintiffs witneſſes. And in concluſion a while after, there being ſpeeches concerning the lands in queſtion, and the Plaintiffs eſtate therein, Sr. *Walter Devereux* openly affirmed, that they would not meddle with the land, for therein they had no power. And the Plaintiffs Councell then deſired the Commiſſioners ſo to explaine themſelves; wherupon Sr. *Walter Devereux* uſed ſpeeches to this effect. viz. * *Nay, if you be there, we have done, and roſe up in diſpleaſure and ſo brake off*, And thus ended the buſines, the ſaid Mr. *Barkley* uſing theſe words very often; viz. *Wee have no Conneell, We have proved &c*, as if the cauſe had concerned himſelf.

* See their wiſdome.

Iur. 20. *Feb.* 1635.
Edw. Salter.

2. *The Affidavit of* Thomas Writer *taken before Sr.* Robert Rich, *the* 18. *of* May 1636, *is to the ſame effect with this of Mr.* Hills.

3. *The Affidavit of* Francis Callow, *and* Thomas Writer.

Betweene Clement Writer *Plainiff*, and George VVorfield *Defendant*.

Francis Callow and *Thomas Writer* the younger of the City of *Worceſter* do make Oath

Oath, that when Mr. *Wild* of Councell for the Plaintiff, did presse things to the Commissioners in the said Plaintiffs behalf, then Mr. *Barkely* would endeavour to decline the said Mr. *Wild* from speaking in the businesse, by villifying the said Plaintiffs cause. And at the time of Mr. *Evets* examination, Sr. *Walter Devereux* spake openly to this effect, (*viz.*) We hear that there are some that are willed to observe what Mr. *Evet* swears, if their be any to take notice what is said here, *we desire to have them excluded the roome.* And these Deponants further say, that the said Commissioners carried themselves with earnestnes, shewing much partiality in the busines against the said Plaintiff. The said Master *Barkley*, openly shewing himself in the Defendants cause, and on the Defendants side, expressed himself in these words, thus (viz) * *We have no councell, we have proved, we have paid,* or *our cause, our proofes,* or the like very often, very unbeseeming Commissioners, who as these Deponants conceive should have been indifferent.

* *Whether this be knave, or foole, or both, is a question and no question.*

Uterque jur: 23: Aprill 1635.
JOHN PAGE.

4: The Affidavit of *Thomas Writer.*

Between Clement VVriter *Plaintiff, and* George VVorfield *Defendant*

THomas VVriter the younger of the City of *VVorcester* Tanner, maketh Oath, that Sr. *Walter Devereux* Kuight and Baronet, is the Defendants Landlord, and that the greatest Suits, and the Plaintiffs chiefest imployments, and disburfments now in question to be accompted, and allowed for by the Commissioners did concern, and were against Mr. *William Barkleyes* own sister and her sonne, (*viz.*) Mistris *Katherine VVorfield* VViddow, and her Sonne Master *John VVorfield.*

Jur. 27 Die Aprill,
1635.
EDWARD CLARKE.

The

The Exceptions drawn by Mr. *Sergeant VVild* (who was alſo preſent, and of the Petitioners Councell at the execution of this latter Commiſſion, and upon which he intended to move the Court againſt the ſaid Certificates; but could not obtain hearing.

Exceptions to the laſt Certificate of the Referrers in the Cauſe between *Clement VVriter* Plaintiffe, and *George VVorſeild* Defendant.

1. *THe ſaid Referrers were much diſpleaſed with the Plaintiffe for procuring a new Reference, as conceiving it an imputation to them, and ſo declared themſelves.*

2. *The ſaid Referrers were unwilling to admit of any Councell for the ſaid Plaintiffe, alleaging the reaſons to be, for that it was Matter of Accounts which they could judge of without Councell, and for that the Defendant had none, yet the Plaintiffe ſent notice to the Defendant, that the Plaintiff intended to have Councell there, and he might do the like if he pleaſed, but at length the Referrees admitted the Plaintiffs Councell to ſpeak for him. This appears by Affidavit.*

3. *The ſaid Councell, deſiring the ſaid Accompts might be viewed, and the miſtakes and omiſſions therein rectified, according to the laſt Order of Reference. The Referrers anſwered, that they were reſolved they would not vary from their former Certificate, unleſſe new matter were ſhewed; whereas the Plaintiffs grief was, that the former Accounts were not rightly examined, and therefore now deſire a more particular examination.*

4. *The ſaid Councell, urging that the former Certificate was upon a generall ſetting of the Demands of the Plaintiffe and Defendant, one againſt the other, viz. The Defendants Demands were 619 l. 10 s. and the Plaintiffs Demands were above 2000 l. and their ſeverall receipts, diſburſments, and engagements one for other, one againſt the other promiſcuouſly and in groſſe, and thereby making them both even, was a cauſe of great miſtake, and of much dammage to the Plaintiff. And therefore deſired that the ſeverall Accompts of each party might be now particularly diſtinguiſhed and examined by themſelves with the times and other circumſtances. And the plaintiff to be charged, and give allowance for his whole receipts, and dammage for the ſame to the Defendant, and the Defendant to do the like for his part; which would make the Accompt clear and certain, and thereby it would appear manifeſt that the Plaintiffe was dam-*

summe of at least 1000 l. more then the Referrees had allowed him, but they utterly refused to do.

3. *The Plaintiff demanded allowance for following the Defendants suits at Law for above 7 yeart, being many and difficult as the Defendants owne desire which he followed with good effect (viz.) for monies disbursed in Charge of suit which was allowed (January 1630.) to be 400 l. For his paines allowed by order to be considered 401. per Annum. For maintenance for himself and horse 50 l. per Annum. For the losse of his Trade proved by divers witnesses of good value in Worcester, estimated to about 800 l. For 68 l. 16 s. Charges in Journeys, and many other disbursements and causes amounting in the whole, to above 2000 l. as is proved in the books. For all which the said Referrees have allowed to the Plaintiff 619. l. 10 s. onely upon the former Certificate, and would not alter it; whereof 200 l. was recovered before by the Plaintiff upon a Tryall at Law (as now they have allowed him) 419 l. 10 s. for all as them cleer remaines.*

6. *Whereas the Defendant Wortell, in consideration of his natural love unto Plaintiff (being his Sister's Sonne,) did convey *Ibulls Mills, and the Lands thereto belonging in trust for the Plaintiff and his heires, to have them after his own decease, and did promise presently to assure the same absolutely unto the Plaintiff and his Heirs.*

* These Mills, ought to have been decreed to the Plaintiff upon return of the Certificate, if his Councell could have been heard, (but being neither then heard by his Lp: nor since by the House of Commons, to whom he appealed. The said Defend: before his death, did all he could (contrary to his many promises and engagements) to make it from the Plaint: to his Executors; who thereupon suing the Plaint: at Law for the recovery thereof. Upn tryall and full evidence the verdict passed for the Plaintiff.

The Referrees were desired by the Plaintiff, Councell, to explain themselves whether they did include that within their ordr, or leave the Plaintiff to his Remedy at Law upon his Uncles promises, but they refused to explain themselves otherwise, then saying they would not meddle with the Land; for therein they had no power. Yet did expresse, that the interest which the Plaintiff claimed in the Defendants Lands, intending as it seemes the said Mills was a cause that made them to allow the Plaintiff much the lesse then otherwise they would have done.

7. *Whereas they further alleaged another Cause to be, that the Defendant was dammified to the value of 400 l. by the Plaintiff declining to bring his evidences at the finding of an Office that they allowed the Plaintiff in respect of these writings 400 l. the lesse then otherwise they would have done.*

To this the Plaintiff offered to prove, that there was no such losse or dammage at all by any such meanes; but they refused to heare any such proofe, saying they had examined it already. Yet in the Plaintiffs absence they would hear his accusers to the same and when the Plaintiff came to cleare, and take off their aspersions, The Referrees would not hear him.

8. Item. *The Plaintiff alleadged that the Defendant Wortell might be examined upon*

upon his Oath, according to the power given to the Referrees, touching the said matters between the Plaintiff and him; which the Plaintiff offered to have bin bound by, but this the Referrees disliked, and would not do.

9. Item, *The said Referrees relyed chiefly upon the Testimony of Mr.* John Evet, *the Defendants witnesse and friend, who dealed for him in the busines, Mr.* Barkely *saying, that he gave more credit to him, then to all the Plaintiffs witnesses, which are between 30 and 40 in number, and of good worth and credit, many of the Chamber of the City of* Worcester, *and as honest men as any in that City, besides divers Merchants of* London, *of good sufficiency, and many other substantiall witnesses.*

JOHN WILD.

14. The Plaintiff having often Petitioned the said Lord Keeper, onely to hear his Councell before the Decree passed, could by no meane obtaine it; To some of which Petitions, he never could get any answer; but to some, after much importunity and long attendance he did. A copy of one Petition with the answer thereto (being the last answer he could get from his good Lordship here followeth.

To the Right Honourable Thomas *Lord* Coventry, *Lord* Keeper *of the Great Seale of* England.

Clem. Writer Plaint.
George Worfold Defr.

The Humble Petition of the Plaintiff.

Humbly Sheweth,

THat your Petitioner can manifest unto your Lordship these points following.

1. That he delivered to the Commissioners at the first and second Commission, three severall accompts in writing, each whereof amounted to 2000 l. or there abouts, and in every one of them, lesse set downe then is proved in the books.

2. That the Commissioners at no time after his first delivery of the first accompt; at either of the Commissions would admit of any examination, or proving of the particulars of either of the said accompts, nor have they returned any one of them.

3. That they have not returned any accompt at all for the Petitioner, save only an imperfect blank note, made meerly by their own appointment.

4. That they did set the Defendants full demand in a grosse sum against the said blanks, as may appear by the Accompt it self upon record, returned for the Petitioners accompt, a Coppy whereof is hereunto annexed, with some exceptions, and reasons added thereunto, shewing wherein, and how the Petitioner is damnified above 1600 l. by the Commissioners said undue proceedings.

Notwithstanding in *Easter* Terme last, before your Petitioner could acquaint your Lordship with these things; The Defendants side obtained an Order for the Decreeing the said proceedings, without day given to the Petitioner, to shew his cause to the contrary, which will be to his undoing.

The Petitioner therefore about the end of *Easter* Terme last, delivered to your Lordship

Lordſhip a Petition, with the Affidavits of three Deponants annexed thereunto, humbly beſeeched your Lordſhip therein, to be pleaſed to appoint a time, to heare your Petitioners Councell, touching his juſt exceptions againſt the ſaid proceedings, and to ſtay the Decree. &c.

Now for aſmuch as the Petitioner knowes not what to do herein, before he receive the ſaid Petition, with your Lordſhips Anſwer.

Hee humbly beſeecheth your good Lordſhip, to be pleaſed to take into your worthy conſideration, the ſtreightnes of his condition, and to vouchſafe him your Lordſhips gracious anſwers, for his timely relief in this his diſtreſſe, which he cannot but aſſure himſelf off, being as confident of your Lordſhips goodnes, as ſenſible of his own wrong.

The Copy of the Lord Keepers *Subſcription to the Petition, written with his own hand here followeth.*

The Commiſſioners, are Gentlemen of worth and quality, and to be believed, againſt the Petitioner, or a better man in his own cauſe, the Commiſſioners having made a Certificate at the Petitioners importunity, I refereed it to them again, and they have again certefied againſt the Petitioner, and very juſtly as I aſſure my ſelf, and if I ſhall receive endleſſe averrements, of a party that reſolves not to be ſatisfied; I ſhall tyre all men, and diſcourage them to undertake any Commiſſion from the Court; the cauſe I have Decreed, and very juſtly, and if the Petitioner be not ſatisfyed, it is his fault, and neither mine nor the Commiſſioners.

Julij. the 11. 1635.

THO: COVENTRYE Cs.

Now after this the Plaintiff (ſeeing no juſtice or relief was to be had for him, during his Lordſhips power without a Parliament) reſted ſtill under the burthen untill this preſent Parliament, and at the very begining thereof, he appealed to the Grand Committee for Courts *of juſtice*, and afterward to the Committee of the Houſe of Commons for Petitions, and obtained ſeverall Orders, for ſeverall daies for a hearing, and he with his Councell, and witneſſes accordingly, ſtill attended; but by reaſon of the publick affaires of the Kingdom, the Plaintiff was ſtill put by; and the hearing of his cauſe deferred, untill he had accompliſhed ſeaven yeares chargeable attendance on the Houſe of Commons, for Juſtice therein.

And

And by reason whereof, having his small means wholly detained from him by the Kings party five years together, found his necessities to be too great, and his life too farre spent, to hope for timely relief from them, and therefore, (in *Mich:* Tearm 47.) He preferred his Bill of Review in Chancery, against the said *Elizabeth Worsfeild*, and one *John Worsfeild*, Executors of the said Defendant *George Worsfeild*, lately deceased, who left behind him a good reall and personall Estate in the hands of his said Executors, of purpose (no doubt) * to enable them to be answerable to the Plaintiffs suit, (then depending in the House of Commons) which to avoid. They have demurred to the Plaintiffs said Bill, which demurrer upon arguing the first of June last, was ordered, that presidents in like case should be produced, and here it resteth undetermined as yet: Howbeit the Plaintiff hopeth shortly to see some good issue thereof, and to obtain such Relief in the whole matter, as shall be agreeable to justice; more then which not being desired, nor lesse (from these now in Authority) is expected.

* *For why else should he give (in effect) his whole estate (from his right Heirs, and from all his ancient & more deserving kinsfolke) to these two, The one being an old childlesse woman; who besides her jointure is a good part of his Lands, hath a great estate of Fee-simple, and other Lands of her own to dispose of, And the other being but a younger Sonne of a fourth Brother of his, and not born to a foote of Land, only marrying a cheife kinswoman of hers; by reason of which and other contrivances they so controwled the Conscience and Estate of the Defendant, as to enable them (since) to purchase an inheritance of near 100l. per Annum at his expence, and at his death to carry the whole remainder, excepting some small matter, when as in the mean time the Plaintiff by whose expences, care, and industry, the said Estate was preserved, must be (by their wills) thus unjustly and dishonestly turned off without recompence.*

October 24: 1648.

FINIS